

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF THE APPEALS FROM)
THE ISSUANCE OF A SUBSTANTIAL)
DEVELOPMENT PERMIT FOR THE THIRD)
LAKE WASHINGTON BRIDGE BY THE)
CITY OF SEATTLE)

KING COUNTY CHAPTER, WASHINGTON)
ENVIRONMENTAL COUNCIL; WILLIAM L.)
McCORD; PUGET SOUND GROUP, SIERRA)
CLUB, and CHRISTINE FOULKS,)

Appellants,)

vs.)

CITY OF SEATTLE,)

Respondent,)

STATE OF WASHINGTON,)
DEPARTMENT OF HIGHWAYS,)

Intervenor.)

SHB Nos. 11, 11-A, 11-B and 11-

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

The above-entitled cause on the 25th day of September, 1973, came
on regularly for hearing before the Shorelines Hearings Board of the
State of Washington upon the order of remand of the Superior Court for

1 King County dated August 3, 1973, J. Richard Aramburu appearing for
2 appellants, Assistant Corporation Counsel Jorgen G. Bader appearing for
3 respondent, and Thomas R. Garlington and Robert M. McIntosh, Assistant
4 Attorneys General, appearing for intervenor.

5 The Shorelines Hearings Board, having considered the judgment and
6 findings of fact and conclusions of law of the Superior Court, the
7 record of the earlier hearing of these appeals before the Shorelines
8 Hearings Board, the argument and briefs of counsel, and being fully
9 advised in the premises now makes the following

10 FINDINGS OF FACT

11 I.

12 Intervenor State of Washington, Department of Highways is an agency
13 of the State of Washington having jurisdiction and responsibility for
14 the planning, construction, and maintenance of state highway facilities.

15 II.

16 The appellants are two individuals and two conservation organi-
17 zations: Appellant William L. McCord is an individual residing at
18 4039 Ninth Avenue Northeast, Seattle, Washington; appellant Christine
19 Foulks is an individual residing at 12530 - 30th Avenue Northeast,
20 Seattle, Washington; appellant King County Chapter, Washington Environ-
21 mental Council is a non-profit organization; appellant Puget Sound Group
22 of the Sierra Club is a non-profit organization.

23 III.

24 Pursuant to the requirements of the Shorelines Management Act of
25 1971, Chapter 90.58 RCW, the Washington State Department of Highways
26 applied for a substantial development permit from the City of Seattle

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 for construction of a floating bridge across Lake Washington on or about
2 November 17, 1971.

3 IV.

4 On January 20, 1972, James Braman, Director of the Department of
5 Community Development of the City of Seattle, determined that the
6 requested substantial development permit should be issued, subject to
7 certain conditions.

8 V.

9 The substantial development permit for construction of a third
10 Lake Washington bridge, granted by the City of Seattle on January 20,
11 1972, was issued subject to the following conditions:

- 12 1. That qualified consultants on water and air quality, soils
13 and soil erosion, lighting, acoustics and ecology be
14 employed by the State Highway Department throughout the
15 design and construction period.
- 16 2. That during construction, no petroleum products, concrete,
17 lumber or other materials be permitted to fall, be wasted
18 into, or otherwise permitted to enter the Lake.
- 19 3. That the Department of Highways conform to the water quality
20 standards of the State Department of Ecology, State
21 Departments of Fisheries and Game, and the Municipality of
22 Metropolitan Seattle.
- 23 4. That the drainage systems for the bridges be constructed or
24 modified so that all surface run-off from the two bridges
25 will be discharged between the pontoon portions of the two
26 bridges and that boom closures, capable of being opened, be
27 installed between the pontoon portions of the two bridges at
both the east and west ends.
5. That the State Highway Department develop and implement a
system of periodic cleaning of the area enclosed by the
bridges and booms.
6. That the right of way beneath and adjacent to the bridges
on the Lake shore be developed and maintained by the
Highway Department in native vegetation acceptable to the
City of Seattle Department of Parks and Recreation and the

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

existing boat launching ramp and related parking area be expanded and improved with suitable surfacing. The shoreline areas shall be made accessible for public use.

VI.

On May 23, 24, 25 and June 2, 1972, hearings on the appeals of appellants were held before this Board pursuant to RCW 90.58.180. Sworn testimony was taken relating to the effects of the bridge on the statutorily designated shorelines area. The principal issue before the Board was whether the bridge satisfied the policy goals set forth in RCW 90.58.020 and whether it was designed "in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water".

VII.

Following said hearings, on August 25, 1972, this Board issued an order remanding to the City of Seattle the matter of the issuance of the substantial development permit on the grounds that the same defects pointed out in the federal decision of Lathan v. Volpe, 350 F. Supp. 262, 4 ERC 1487 (D.C. Wash., Aug. 9, 1972), would make the environmental impact statement prepared by the Department of Highways inadequate under the State Environmental Policy Act (SEPA).

VIII.

On September 20, 1972, intervenor State of Washington, Department of Highways, filed a petition for review of the decision of the Shorelines Hearings Board in King County Superior Court, pursuant to RCW 90.58.180(3) and RCW 34.04.130.

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

IX.

By order dated November 6, 1972, the Superior Court transferred this case to the Court of Appeals on the grounds that the Superior Court lacked jurisdiction thereof.

X.

On January 17, 1973, the Court of Appeals certified and transferred this case to the Supreme Court for "prompt and ultimate determination" of the "fundamental and urgent issues of broad public import" presented thereby.

XI.

On February 23, 1973, the Supreme Court granted petitioner's motion for priority setting in that court. Oral argument in the Supreme Court took place on March 13, 1973. On May 17, 1973, the opinion of the Supreme Court was filed, holding that the Superior Court is the only court which has original jurisdiction to review acts of administrative bodies, and therefore remanding this matter to the Superior Court "to review the record made before the Shorelines Hearings Board and pass upon the remaining contentions of the parties".

XII.

Following the decision of the Supreme Court, this case was remanded to the Superior Court and was heard on July 23, 1973, pursuant to intervenor's motion for a priority setting.

XIII.

Following the hearing of this matter in Superior Court, on August 3, 1973, the Superior Court issued findings of fact and conclusions of law remanding these appeals to this Board, requiring

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 this Board to examine independently the environmental impact statement
2 filed herein "in light of the State Environmental Policy Act, Chapter
3 43 21C RCW, considering the standards set forth in that act.", and
4 concluding that "The interests of the parties to this appeal and the
5 citizens of this state would best be served by prompt and conclusive
6 determination of these appeals.", and inviting this Board "to dispose
7 of these appeals as promptly and expeditiously as possible consistent
8 with the Board's schedule."

9 XIV.

10 The proposed floating bridge for which a substantial development
11 permit was requested is parallel to and approximately sixty feet distant
12 from the present floating bridge to Mercer Island. It is intended to
13 form an integral part of Interstate 90 between Interstate 5 and the west
14 shore of Mercer Island. Interstate Highway 90 is a part of the Inter-
15 state Highway System pursuant to Title 23 of the United States Code and
16 will be financed through the use of ninety percent (90%) federal funding.
17 The proposed floating bridge will provide for four westbound traffic
18 lanes and two reversible transit lanes in conjunction with the existing
19 bridge. The proposed bridge will be able to accommodate the predicted
20 1990 peak hour directional vehicular demand of 8,900 vehicles per hour.
21 The existing highway and bridge today carries approximately 4,300
22 vehicles per hour in the peak hour direction during the morning rush
23 hour.

24 XV.

25 In designing the projected bridge, the Department of Highways
26 created an interdisciplinary design team consisting of consultants

27 FINDINGS OF FACT,

CONCLUSIONS AND ORDER

1 specializing in the fields of architecture, acoustics, air quality,
2 landscape architecture, engineering, urban planning, sociology,
3 economics and other disciplines. This and another interdisciplinary
4 design team created a plan for the Seattle and Mercer Island sections
5 of I-90, including the bridge over the shorelines area, which received
6 a citation for excellent community architecture from the American
7 Institute of Architects. The citation noted that " . . . the
8 recommendations of the two teams made after exhaustive studies and
9 consultation with residents were adopted substantially by the [highway]
10 department; thus the City of Seattle and Mercer Island are assured of
11 new freeway segments that not only will serve their transportation needs,
12 but also make positive contribution to the environment through which
13 they will pass . . .". (TR. 2-184)

14 XVI.

15 Since the establishment of the design team in 1968, the Department
16 of Highways and members of the design team have held over 300 meetings
17 with community groups, citizens, and public agencies relative to the
18 design of the facility. (Tr. 3-94) As a consequence of these meetings
19 and formal hearings conducted by the Department of Highways, numerous
20 substantial design changes were made reflecting the desires of the
21 community. These changes were intended to and will minimize insofar as
22 practical any resultant damage to the environment of the shoreline area
23 and any interference with the public's use of the water. Thus, the new
24 bridge was reduced from ten additional lanes to six with two of the new
25 lanes to be used for rapid transit, designed to tuck under the four
26 vehicle lanes to minimize impact at the shoreline. (Tr. 3-95) OF 54

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 recommendations by the I-90 Citizens' Advisory Committee, more than three
2 quarters were met and all were fairly considered. (Tr. 3-97) Thirty
3 design changes were made as a result of citizen and community suggestions.
4 (Ex. 0)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
XVII.

The design of the new I-90 bridge will contain a number of recre-
ational features, including an 8-foot sidewalk for pedestrians and
bicycles which will permit foot and bicycle travel from the City of
Seattle across Lake Washington and beyond. (Tr. 2-82) The new bridge
will have a boat docking and moorage facility toward the middle of the
Lake with access to the pedestrian sidewalk along the bridge. Navi-
gational clearances of 32 feet at the west end of the bridge will permit
the passage of most pleasure boats, with larger boats using the east
channel. (Tr. 2-85) On the Seattle shoreline, a shoreline park area of
450 feet along the waterfront and 200 feet deep will provide a landscaped
two-acre park which will contain boat ramps or such other recreational
facilities as are desired by the community. (Intervenor's Ex. I,
Tr. 2-88, Tr. 2-181)

XVIII.

Construction of the parallel I-90 bridge will permit the removal of
the draw span bulge in the existing Lacey Murrow bridge (Tr. 2-65) and
will further result in separation of eastbound and westbound traffic,
thereby eliminating extremely hazardous traffic conditions now existing.
In the years 1967, 1968 and 1969, there were 622 accidents on the present
highway from I-5 to the west shore of Mercer Island. It is anticipated
that when I-90 is constructed to interstate standards the accident rate

1 will be reduced by one-half. (Tr. 3-107)

2 XIX.

3 Projected traffic on I-90 including the crossing of Lake Washington
4 using the existing and new I-90 bridges, is projected to nearly double
5 between now and 1990. (Tr. 3-110) The doubling of traffic volumes
6 will result in a general increase in noise level of three decibels on
7 the A scale. (dba). (Tr. 3-22)

8 As the result of extensive studies by two acoustical consulting
9 firms, it has been determined that with the extensive use of earth berms,
10 acoustical walls and landscaping, there will be no increase over the
11 existing noise environment, through most of the corridor, and in many
12 locations, the noise level will actually be lowered from what it is
13 today. Most people living adjacent to the freeway corridor will
14 experience no more noise than those living along typical Seattle
15 arterials, such as Empire Way and 23rd Avenue South in the area of this
16 project, and generally less noise than is produced along Rainier Avenue
17 South. One location where reduction of traffic noise is difficult to
18 achieve is in the vicinity of the east tunnel portals. The contours of
19 the land in this area are such that berms (earth mounds) or walls would
20 interfere with views of Lake Washington for some residences. The noise
21 exposure in this area is further complicated by noise from traffic on
22 the floating bridge, and the unusual noise transmission characteristics
23 (which will change with the weather) over Lake Washington. (Ex. 2, p. 31A)
24 As a result, the projected noise levels south of the existing Lake
25 Washington bridge at the nearest private property 100 feet from the
26 bridge will increase by 4 dba over existing noise levels by the year 1990.

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 The increased noise levels will diminish to 2 dba above existing noise
2 levels a short distance to the south. North of the new bridge noise
3 levels will increase somewhat more due to the more northerly location of
4 the new bridge. At the nearest private property 200 feet north of the
5 new bridge the noise level will increase 6 to 7 dba above present noise
6 levels (and for peak noises the increase will be 8 dba above present
7 levels). The increased noise north of the new bridge will diminish to an
8 increase of 4 dba farther to the north. Thus, the increased noise impact
9 of the new bridge, except for properties in close proximity to the bridges,
10 will be an increase of 2 dba along the shoreline to the south and 4 dba
11 along the shoreline to the north. (Tr. 3-52)

12 After completion of the bridge, the highest predicted average noise
13 level along the shoreline in 1990 on either side of the I-90 bridges will
14 be 60 dba (Tr. 3-23, 3-25), which is about the noise level of normal
15 conversation and 5 dba above the noise level of a typical urban
16 residential area with nearby traffic. (Slide 7, testimony of Richards -
17 Ex. A)

18 Xi.

19 The most effective way of reducing peak noise caused by trucks
20 crossing Lake Washington will be through noise emission controls by
21 state or federal law as endorsed by the Washington Environmental Council.
22 (Tr. 3-76, 3-77) We, however, do take notice of the fact that
23 technological advances in the field of environmental protection is an
24 on going process; that after the bridge has been constructed and is in
25 public use, problems in the areas of water and air quality and acoustical
26 effects may arise that have not been predicted and which we have now

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 found to have been minimized. The Department of Highways has demonstrated
2 its concern for and has engaged in a comprehensive effort to mitigate
3 adverse environmental effects of the bridge during the final design and
4 construction period. The City of Seattle, by the imposition of six
5 conditions to the permit, anticipates that new issues, problems and
6 opportunities for further reducing adverse environmental effects will
7 occur during the process of converting the plan into detailed blueprints
8 for the structures and during the course of actual construction. This
9 Board finds that after the bridge has been constructed, and for a
10 reasonable time thereafter, additional opportunity may arise for further
11 reducing those environmental effects based on the then known measured
12 effects.

13 XXI.

14 Condition No. 1 of the substantial development permit issued by the
15 City of Seattle to the Department of Highways requires that consultants
16 on water and air quality, soils and soil erosion, lighting, acoustics
17 and ecology be employed by the Department of Highways throughout the
18 design and construction period. Such consultants will have no control
19 over the final design and construction plans. There is no guarantee
20 that the Department of Highways will implement proposals or recommendations
21 of the consultants.

22 XXII.

23 Construction of the third Lake Washington bridge will, by increasing
24 the speed of peak hour traffic, reduce carbon monoxide and hydrocarbon
25 emissions (although it will not decrease oxides of nitrogen). By 1990
26 federal vehicle emission controls should reduce the pollution emission

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 of vehicles to 10 percent of the 1970 levels. If these emission
2 controls are not successful, then the construction of the third Lake
3 Washington bridge will be more essential as a means of reducing carbon
4 monoxide and hydrocarbon emissions. (Tr. 2-138 to 2-140)

5 XXIII.

6 Condition No. 3 of the substantial development permit issued by
7 the City of Seattle to the Department of Highways requires that the
8 Department of Highways conform to water quality standards of the State
9 Department of Ecology, State Departments of Fisheries and Game, and the
10 municipality of metropolitan Seattle. (Ex. G) The Department of
11 Ecology has issued a water quality certificate in connection with the
12 third Lake Washington bridge certifying that there is reasonable
13 assurance the subject activities will not violate the water quality
14 regulations of the State of Washington. (Ex. J)

15 XXIV.

16 The substantial development permit issued by Seattle to the
17 Department of Highways contains a condition that the drainage systems
18 for the bridges be constructed or modified so that all surface run-off
19 from the two bridges discharge between the pontoon portions of the
20 two bridges and that boom closures capable of being opened be installed
21 between the pontoon portion of the two bridges at both the east and
22 west ends. The permit further requires that the Department of Highways
23 develop and implement a system of periodical cleaning of the area
24 enclosed by the bridges and booms. As a consequence, construction of
25 the additional parallel bridge will reduce the hazard of oil spills
26 from tank trucks by containing any such spills within the area between

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 the bridges, facilitating the removal of such spills and thereby
2 avoiding possible pollution of the Lake. (Ex. G)

3 XXV.

4 The proposed bridge is to be located within a well-established
5 transportation corridor in Seattle's existing comprehensive plan,
6 and such transportation corridor is expected to be recognized as such
7 (by the Director of Environmental Management for Seattle) in Seattle's
8 master program for shoreline development now being prepared. (Tr. 1-202)

9 XXVI.

10 The Department of Highways, prior to its application for a
11 substantial development permit from the City of Seattle, prepared
12 a draft environmental impact statement as required by the State and
13 National Environmental Policy Acts. The draft statement was duly
14 circulated to federal, state and local agencies having authority to
15 develop and enforce environmental standards. The draft statement,
16 together with the comments received, was available for inspection by the
17 public, along with other plans and written material, at the project
18 office of the Department of Highways in the immediate vicinity of the
19 section of SR 90 involved herein. Notice of the availability of such
20 documents for inspection by the public was given by publication in
21 newspapers published in the City of Seattle. Subsequently thereto, a
22 final environmental impact statement was prepared and completed on or
23 about September 27, 1971, prior to the application of the Department
24 of Highways for a substantial development permit from the City of Seattle
25 for the third Lake Washington bridge. A copy of said final environ-
26 mental impact statement marked Exhibit "2" was admitted into evidence

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 at the hearing of this matter before the Shorelines Hearings Board on
2 May 23, 24, 25 and June 2, 1972.

3 XXVII.

4 The environmental impact statement filed with the City of Seattle
5 by the Department of Highways in connection with its application for a
6 substantial development permit for a third Lake Washington bridge
7 (Ex. 2) is a detailed and comprehensive report which reflects the
8 contributions of both (1) an interdisciplinary design team composed
9 of engineers, urban planners, architects, sociologists, economists,
10 acoustic engineers, and community workers, and (2) the community
11 affected by the projects.

12 XXVIII.

13 The environmental impact statement filed by the Department of
14 Highways describes and discusses the environmental effects of the
15 proposed project, including its effects on Lake Washington and the
16 adjoining shorelines area in conformity with chapter 43.21C RCW.
17 This final environmental impact statement was duly filed with state
18 agencies and made available to the public as required by chapter 43.21C
19 RCW.

20 XXIX.

21 The proposed third Lake Washington bridge is consistent with the
22 criteria for shoreline development contained in chapter 90.58 RCW and
23 specifically RCW 90.58.020 in that the plan for the bridge including the
24 conditions contained in the permit will:

25 (1) recognize and protect the state-wide interest over local
26 interest;

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

- (2) result in long-term benefit;
- (3) protect the resources and ecology of the shoreline;
- (4) increase public access to publicly-owned areas of the shoreline;
- (5) increase recreational opportunities for the public in the shoreline;
- (6) provide for other elements defined in RCW 90.58.100 including
 - (a) an economic development element for the location of a transportation facility;
 - (b) a public access element making provision for public access to publicly-owned area;
 - (c) a circulation element consisting in part of the general location and extent of an existing and proposed major thoroughfare or transportation route (I-90) properly correlated with the shoreline use element.

The plan for construction of the bridge as conditioned by the permit issued by the City of Seattle will minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

From the foregoing Findings of Fact, this Board makes the following

CONCLUSIONS OF LAW

I.

The Shorelines Hearings Board has both the authority and obligation to review and determine independently the sufficiency under the State Environmental Policy Act of the environmental impact statement filed by the Department of Highways in conjunction with its request for a substantial development permit for a third Lake Washington bridge.

FINDINGS OF FACT,
CONCLUSIONS AND ORI

1 II.

2 The final environmental impact statement filed by the Department
3 of Highways herein contains a detailed statement in conformity with the
4 provisions of SLPA, specifically RCW 43.21.020(2)(c). In applying for
5 and receiving from the City of Seattle a substantial development permit
6 for the construction of a third Lake Washington bridge, the Department
7 of Highways has fully complied with the provisions of SEPA, chapter
8 43.21C RCW.

9 III.

10 In accordance with RCW 90.58.140(6), the burden of proving improper
11 issuance of the substantial development permit is on appellants.

12 IV.

13 Appellants have failed to sustain their burden of proving that
14 the issuance of the substantial development permit by the City of
15 Seattle was improper.

16 V.

17 The proposed third Lake Washington bridge satisfies the policy
18 goals set forth in RCW 90.58.020, and, as required by this statute, was
19 designed in a manner to minimize, insofar as practical, any resultant
20 damage to the ecology and environment of the shoreline area and any
21 interference with the public's use of the water. The Shorelines Hearings
22 Board has both the authority and obligation to review and determine
23 independently the appropriateness of the issuance of the substantial
24 development permit and the conditions imposed thereon by the City of
25 Seattle. Further, this Board has the obligation and authority to
26 impose upon the permit any additional or modified conditions when it is

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 in the public interest to do so.

2 VI.

3 The appeals of appellants should be dismissed.

4 VII.

5 The granting of a substantial development permit by the City of
6 Seattle for the proposed third Lake Washington bridge should be
7 affirmed, as modified by this Board.

8 Therefore, the Shorelines Hearings Board makes this

9 ORDER

10 The action of the City of Seattle in issuing a substantial
11 development permit to the State of Washington, Department of Highways,
12 for construction of the third (I-90) Lake Washington bridge be and the
13 same is hereby affirmed with the following addition to numbered
14 paragraph one of the conditions of the permit:

15 Such consultants shall be selected by the Department of
16 Highways pursuant to its consultant selection board process
17 subject, however, to the concurrence of the City of Seattle
18 and the State of Washington, Department of Ecology. Based on
19 reports submitted by the consultants, the City of Seattle and
20 the State of Washington, Department of Ecology may jointly
21 require changes which shall be incorporated into and become a
22 part of the final design and construction plans of the State
23 of Washington, Department of Highways.

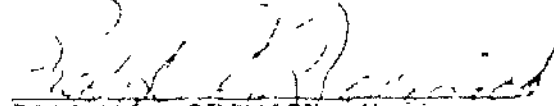
24 For a period of two years from the date that the bridge is
25 opened for vehicular public use, qualified experts jointly
26 selected by the City of Seattle and the State of Washington,
27 Department of Ecology shall be employed by the State of
Washington, Department of Highways to monitor, assess and make
recommendations upon water and air quality, and acoustical
effects resulting from bridge use.


28 Such information may be utilized by the City of Seattle and
29 the State of Washington, Department of Ecology for the purpose of
30 making a joint recommendation to the State Highway Commission for
31 the further minimization of environmental impacts.

32 FINDINGS OF FACT,
33 CONCLUSIONS AND ORDER

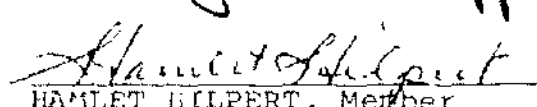
1 DONE at Lacey, Washington this 20th day of December, 1973.

2 SHORELINES HEARINGS BOARD

3 
4 RALPH A. BESUJICK, Member

5 
6 W. A. GISSBERG, Member

7 
8 MARY ELLEN MCCALLFREE, Member

9 
10 HAMLET GILPERT, Member

11
12 DISSENT

13 The majority's decision to sustain the shoreline permit and, thus,
14 clear the way for construction of the Third Lake Washington Bridge, has
15 our approval. The bridge is needed.

16 But the majority decision does not go far enough, in our opinion,
17 in protecting residents of the Leschi neighborhood against what we fear
18 may be a critical problem of noise pollution.

19 The Environmental Impact Statement itself acknowledges that in
20 the Leschi area "reduction of traffic noise is difficult to achieve."
21 That is a monumental under-statement.

22 Uncontroverted sworn testimony was given the Board that there
23 may be a shattering impact of noise on the Leschi area from the
24 expanded bridge. Acoustical experts testified that the "average"
25 noise level of the bridge will be far higher than the acceptable
26 level for a residential neighborhood.

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 The critical problem, however, will not be the "average" noise
2 level. What may send residents of Leschi crawling up their walls are
3 "peak" outbursts from trucks, buses and motorcycles, particularly
4 during the night hours of sleep.

5 In this connection, we note that the operator of the Seattle-
6 Tacoma International Airport now is spending some \$16 million to
7 purchase homes whose occupants are affected critically by an
8 acoustical problem created at the airport. We do not here attempt
9 any comparison between the scream of a jet liner and the roar of a
10 truck, bus or motorcycle.

11 But we do say and we firmly believe the Shoreline Management Act
12 requires us to say, that NOW is the time for the City of Seattle and
13 the State Highway Department to face up to the noise pollution
14 problem.

15 The majority decision attempts to meet this problem by giving
16 the recommendations of expert consultants some force of authority
17 in the design and construction stages. We commend the majority for
18 this.

19 The solution of the noise problem, however, may not rest solely
20 in design. The Board, in fact, heard testimony that there may be no
21 acceptable design changes which could protect Leschi residents from
22 the bridge's cacophony.

23 The solution, therefore, may lie with operational restrictions,
24 particularly during night hours. The majority opinion does not
25 include any guaranteed protection to Leschi residents in this regard.

1 For this reason, we regretfully and respectfully must dissent.
2 DONE at Lacey, Washington this 20th day of December, 1973.

3 Walt Woodward
4 WALT WOODWARD, Chairman

5
6 Gordon Y. Ericksen
7 GORDON Y. ERICKSEN, Member
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF THE APPEALS FROM)
THE ISSUANCE OF A SUBSTANTIAL)
DEVELOPMENT PERMIT FOR THE THIRD)
LAKE WASHINGTON BRIDGE BY THE)
CITY OF SEATTLE)

SHB Nos. 11 11a, 11b and 11c

REMAND

We are concerned on this appeal with whether or not the City of Seattle should have granted a permit for the construction of a six lane bridge connecting the City of Seattle with Mercer Island, the same being a segment of the I-90 Highway.

The granting of this Permit was obviously for "a major action significantly affecting the quality of the environment," and as such, required the development of an environmental impact statement (Environmental Policy Act, Chapter 109, Laws of 1971, 1st Ex. Session, RCW 43.21C).

The only document presented to this Board purporting to be an environmental impact statement was Exhibit 2 which relates to a section of Highway I-90, of which the bridge in question was only a part.

It has been branded in a United States District Court decision as

1 "inadequate" and as failing to "meet minimum legal standards" (Lathan v.
2 Volpe, Civil Action 8986, Western District of Washington, Seattle,
3 August 4, 1972).

4 The same defects pointed out in the federal decision would make it
5 unacceptable under Washington's Environmental Policy Act cited supra.

6 The United States District Court has directed the development of a
7 new environmental impact statement which will meet the federal require-
8 ments. It is our view that the City of Seattle, through its proper
9 authorities, should have the opportunity of reviewing the application for
10 the Permit with which we are concerned in the light of the newly prepared
11 and presumably adequate environmental impact statement; and for that
12 purpose, we remand the matter of the issuance of the Permit in question
13 to the City of Seattle for further consideration.

14 DONE at Olympia, Washington this 25th day of August, 1972.

15 SHORELINES HEARINGS BOARD

16 Matthew W. Hill
17 MATTHEW W. HILL, Chairman

18 James T. Sheehy
19 JAMES T. SHEEHY, Member

20 Walt Woodward
21 WALT WOODWARD, Member

22 Ralph A. Elswick
23 RALPH A. ELSWICK, Member

24 Tracy J. Owen
25 TRACY J. OWEN, Member
26

REMAND